

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No.: 04-1299

UNITED STATES OF AMERICA
Appellee

v.

VICTOR HUGO QUICENO MONTOKA
Appellant

On Appeal from Final Judgement of the
United States District Court for the
District of New Jersey
Submitted: March 8, 2005

Before: NYGAARD, McKEE and RENDELL, Circuit Judges

ORDER AMENDING OPINION

IT IS HEREBY ORDERED, that the Opinion filed in this case on June 1, 2005,
be amended as follows:

On page 4, delete the sentence beginning “The letter declares Montoya’s
innocence” and replace it with “The letter declares Montoya’s
innocence”

On Page 6, delete “Montes-Lenya” and replace with “Montes-Leyva.” On
that same page, delete the sentence “However, that evidence would ‘if
anything . . . a possible discrepancy.’ A109,” and replace with “However,
that evidence would ‘if anything . . . present[] a possible discrepancy.’
A125.”. Again, on the same page, delete “. . . was guilty as charged.’ *Id.*,”
and replace with “. . . was guilty as charged.’ A 109.”

On page 7, delete the following sentence from the Opinion: “However, it is
now clear that the court could not rely upon that drug quantity to increase

Montoya's sentence unless he admitted it, or the quantity was proven beyond a reasonable doubt to the jury."

BY THE COURT

/s/ Theodore A. McKee
Circuit Judge

Dated: June 7, 2005

CMH/cc: BPR, SGC, DBL, GSL